

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

VERNON MERCIER, derivatively on behalf of	§	
MASSEY ENERGY COMPANY,	§	
	§	
	§	
Plaintiff,	§	Case No. 2:07-cv-0555
	§	
vs.	§	Judge David A. Faber
	§	
DON L. BLANKENSHIP, BAXTER	§	(Derivative Action)
PHILLIPS, JR., DAN MOORE, E. GORDON	§	
GEE, RICHARD M. GABRYS, JAMES	§	
CRAWFORD, BOBBY R. INMAN, ROBERT	§	
H. FOGLESONG, H. DREXEL SHORT, JR.,	§	
J. CHRISTOPHER ADKINS, JEFFREY M.	§	
JAROSINSKI, LADY BARBARA THOMAS	§	
JUDGE, STANLEY C. SUBOLESKI,	§	
ELIZABETH CHAMBERLIN AND THOMAS	§	
COOK,	§	
	§	
Defendants,	§	
	§	
and	§	
	§	
MASSEY ENERGY COMPANY, a Delaware	§	
corporation,	§	
	§	
Nominal Defendant.	§	
	§	

JOINT MOTION FOR RULE 11 SANCTIONS

Pursuant to Rule 11 of the Federal Rules of Civil Procedure, and for the reasons set forth in the accompanying memorandum of law, Nominal Defendant Massey Energy Company ("Massey") and Defendants Don L. Blankenship, Baxter Phillips, Jr., Dan R. Moore, E. Gordon Gee, Richard M. Gabrys, James B. Crawford, Bobby R. Inman, Robert H. Foglesong, H. Drexel Short, Jr., J. Christopher Adkins, Jeffrey M. Jarosinski, Lady Barbara Thomas Judge,

Stanley C. Suboleski, Elizabeth Chamberlin and Thomas Cook (collectively, the "Defendants") jointly move this Court for an order imposing sanctions on Vernon Mercier and his attorneys.

As set forth fully in the accompanying memorandum:

1. Mr. Mercier's attorneys violated Fed. R. Civ. P. 11(b)(2) by presenting a pleading to this Court containing claims "not warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law".

2. Mr. Mercier and his attorneys violated Fed. R. Civ. P. 11(b)(1) by presenting a pleading to this Court for the improper purposes of harassing Defendants and extracting legal fees from Massey.

March 3, 2009

Respectfully submitted,

s/Jonathan L. Anderson

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Crawford, Bobby R. Inman, Robert H.
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Stanley C. Suboleski and Nominal
Defendant Massey Energy Company**

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M. Jarosinski, Elizabeth Chamberlin and
Thomas Cook.**

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JUDGE, STANLEY C. SUBOLESKI,
ELIZABETH CHAMBERLIN AND THOMAS
COOK,

Defendants,

and

MASSEY ENERGY COMPANY, a Delaware
corporation,

Nominal Defendant.

Case No. 2:07-cv-0555

Judge David A. Faber

(Derivative Action)

CERTIFICATE OF SERVICE

I, Jonathan L. Anderson, do hereby certify that on March 3, 2009, I electronically filed the foregoing *Joint Motion for Rule 11 Sanctions* using the CM/ECF system, which will send notification of such filing to the following CM/ECF participants:

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Elizabeth Chamberlin and Thomas Cook.*

I further certify that I have also mailed the foregoing ***Joint Motion for Rule 11***

Sanctions via first-class mail, United States Postal Service, to the following non-CM/ECF participants:

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Counsel for Plaintiff

s/Jonathan L. Anderson

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